

Applicant : Budong You et al.
Serial No. : 10/713,749
Filed : November 13, 2003
Page : 6 of 11

Attorney's Docket No.: 09464-025001

REMARKS

I. Introduction

Applicant and Applicant's representative would like to thank Examiner Le again for the indication of allowance of claims 1-16.

In response to the Office Action dated March 27, 2006, Applicant has amended claims 19 and 20 so as to address the pending rejection under 35 U.S.C. § 112, 2nd paragraph. New claim 22 is added.

For the reasons set forth below, Applicant respectfully submits that all pending claims are patentable over the cited prior art references.

II. The Rejection Of Claims 19-20 Under 35 U.S.C. § 112, Second Paragraph

Claims 19-20 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

A. Finality Is Premature and Improper

As a preliminary matter, the Examiner is kindly reminded that under the present patent practice, second or any subsequent actions on the merits shall be made final, except where the Examiner introduces a new ground of rejection that is neither necessitated by Applicant's amendment of the claims nor based on information submitted in an IDS (see, M.P.E.P. § 706.07).

In the instant case, the Examiner has rejected claims 19-20 under a new ground of rejection under 35 U.S.C. § 112, 2nd paragraph as being indefinite, where claims 19-20 neither were amended in the Amendment filed November 3, 2005, nor are currently rejected based on information submitted in an IDS.

As claims 19 and 20 were not substantively amended in the previous Amendment, the finality of the outstanding Office Action is submitted to be premature. Accordingly, Applicant respectfully submits that the finality of the outstanding Office Action be withdrawn, and for this

Applicant : Budong You et al.
Serial No. : 10/713,749
Filed : November 13, 2003
Page : 7 of 11

Attorney's Docket No.: 09464-025001

response be treated as a response to a non-final Office Action so as to provide the Applicant an opportunity to address this new ground of rejection.

B. Rejections To Claims 19 and 20

With respect to claim 19, the Examiner asserts that the claimed limitation "high energy implant" is indefinite because it is unclear what energy implant is considered as "high energy implant". With respect to claim 20, the Examiner also asserts that the claimed limitation "large tilt implant" is indefinite because it is unclear what implant is considered as "large angle tilt implant".

Applicant respectfully disagrees. Applicant would stress that a patent disclosure is directed to one having ordinary skill in the art. *In re Howarth*, 654 F.2d 103, 210 USPQ 689 (CCPA 1981). It logically follows that conventional knowledge is read into the disclosure, thereby relieving Applicant of the burden of disclosing in painstaking detail that which is already known and, consequently, avoid burdening the PTO with cumbersome specifications.

Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984).

In the instant case, Applicant submits that the term "high energy implant" is used by persons of ordinary skill in the art. The phrase "high energy implant" is not an Applicant-coined term using relative terminology. Rather, "high energy implant" is a term used by those in the practice of semiconductor device fabrication (a simple web-based search will reveal significant usage of the term in technical publications). Applicant submits that a person of ordinary skill in the art would understand that "high energy implant" refers generally to a deep energy implantation associated with a given semiconductor material. Applicant submits that a person skilled in the art would understand that, as of the filing date of the application, "high energy implant" refers more particularly to energies of about 1 MeV and above.

Applicant also submits that the term "large angle tilt implant" is used by persons of ordinary skill in the art. Again, the phrase "large angle tilt implant" is not an Applicant-coined term using relative terminology. Rather, "large angle tilt implant" is a term used by those in the practice of semiconductor device fabrication (and again, a simple web-based search will reveal significant usage of the term in technical publications). Moreover, in the instant case, Applicant

Applicant : Budong You et al.
Serial No. : 10/713,749
Filed : November 13, 2003
Page : 8 of 11

Attorney's Docket No.: 09464-025001

submits that the specification expressly discloses that normal tilt angle is 7 degrees, and that a large angle tilt (LAT) is larger than 7 degrees (see, page 12, lines 19-20). The Examiner is kindly reminded that when the specification states the meaning that a term in the claim is intended to have, the claim is examined using that meaning in order to achieve a complete exploration of the Applicant's invention (see, M.P.E.P. § 2173.05). While the specification should not be read into the scope of the claims, the claims must be construed in light of the description in the specification. Thus, Applicant respectfully submits that the term "large angle tile implant" is not indefinite, because a person of ordinary skill in the art would understand that "large angle tile implant" and because the specification readily sets forth the meaning of this term.

Based upon the foregoing, Applicant respectfully submits that one having ordinary skill in the art would have no difficulty understanding the scope of the claimed invention, particularly when reasonably interpreted in light of and consistent with the written description of the specification, and as repeatedly stated by the Federal Circuit, nothing more is required. "If the claims read in light of the specification reasonably apprise those skilled in the art of the scope of the invention, 112 demands no more." *Credle v. Bond*, 25 F.3d 1556, 30 USPQ2d 1911 (Fed. Cir. 1994). Accordingly, Applicant respectfully requests that the rejection of claims 19-20 under 35 U.S.C. § 112, second paragraph be withdrawn.

III. The Rejection Of Claims 17 and 19 Under 35 U.S.C. § 102

Claims 17 and 19 are rejected under 35 U.S.C. § 102(e) as being anticipated by USP No. 6,927,453 to Shibib. Applicant respectfully traverses this rejection for at least the following reasons.

Claim 17 recites in-part a method of fabricating an LDMOS transistor. The method includes implanting a P-body, and forming a gate oxide after implantation of the P-body.

In the statement of rejection, the Examiner refers the Applicant to Figs. 3-6 of Shibab as disclosing the claimed invention. Applicant respectfully disagrees.

Shibab generally describes a method of forming an LDMOS device. As shown in Figs. 3 and 4, the method includes forming a substrate 302 and an epitaxial layer 304 on the substrate 302 (col. 8, lines 33-49), followed by deposition of a buried lightly doped drain (LDD) region

Applicant : Budong You et al.
Serial No. : 10/713,749
Filed : November 13, 2003
Page : 9 of 11

Attorney's Docket No.: 09464-025001

306 (col. 8, lines 50-65). A thin oxide layer 308, which is a gate oxide (col. 9, lines 10-11), is then formed on the LDD region 306. Subsequently, a P-body region 320 is implanted into the epitaxial layer 304, and a gate 316 is fabricated over the gate oxide 308 (col. 9, lines 1-18).

Clearly, the gate oxide 308 is formed before, and not after, the implantation of the P-body region 320, as required by claim 17.

Accordingly, as anticipation under 35 U.S.C. § 102 requires that each element of the claim in issue be found, either expressly described or under principles of inherency, in a single prior art reference, *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 USPQ 781 (Fed. Cir. 1983), and at a minimum, Shibab fails to disclose or suggest the foregoing claim elements, it is clear that Shibab does not anticipate claim 17 or any of the claims dependent thereon.

Claim 19 depends on claim 17, which includes all limitations recited by claim 17. Therefore, claim 19 is also submitted to be allowable by virtue of dependency on claim 17.

IV. The Rejection Of Claims 18 and 20 Under 35 U.S.C. § 103

Claims 18 and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Shibab. Applicant respectfully traverses this rejection for at least the following reasons.

Claim 18 recites implanting a P-body including implanting the P-body using a first implant and a second implant.

In the statement of rejection, the Examiner admits that Shibab does not disclose the foregoing claimed feature, but asserts that "it would have been obvious to one having ordinary skill in the art ... to implant the P-body using a first implant and a second implant, since it has been held that mere duplication of the essential step of a device involves only routine skill in the art." Applicant respectfully disagrees.

Specifically, as recited by claim 18, the implantation of a P-body includes implanting the P-body using a first implant and a second implant. As supported by claims 19 and 20, the first implant and the second implant are performed using different implantation techniques. Particularly, the first implant is a high energy implant, whereas the second implant is a large angle tilt implant. Accordingly, Applicant respectfully submits that the claimed first and second implants are not mere duplication; namely, the claimed first and second implants are not identical.

Applicant : Budong You et al.
Serial No. : 10/713,749
Filed : November 13, 2003
Page : 10 of 11

Attorney's Docket No.: 09464-025001

Furthermore, the Examiner has not cited any case law or section of the M.P.E.P in reaching the conclusion that "mere duplication of the essential step of a device involves only routine skill in the art." Even further, Applicant respectfully submits that this statement as a prelude to the rejection is not a proper basis for rejecting the pending claims, as the statement is directed to an opinion rather than what is taught by the prior art. Applicant submits that the "Examiner's opinion" cannot be relied on to replace the deficiency of a prior art reference. If the pending rejection intended to take Official Notice that the differences between the cited prior art and the present invention as recited in the rejected claims are well-known in the art, then pursuant to M.P.E.P. § 2144.03, Applicant respectfully traverses such an assertion and request the next Office Action to cite one or more references in support of this position (see, 2nd paragraph, last three lines of M.P.E.P. § 2144.03, which requires the Examiner to cite a reference in support of an allegation of Official Notice when Applicant traverses).

Claim 20 depends on claims 17 and 18, which includes all limitations recited by claims 17 and 18. Therefore, claim 20 is also submitted to be allowable by virtue of dependency on claim 17 and 18.

V. Conclusion

By responding in the foregoing remarks only to particular positions taken by the Examiner, the Applicant does not acquiesce with other positions that have not been explicitly addressed. In addition, Applicant's arguments for the patentability of a claim should not be understood as implying that no other reasons for the patentability of that claim exist.

For all of the reasons set forth above, it is urged that the application is in condition for allowance, an indication of which is respectfully solicited.

If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicant's attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 06-1050 and please credit any excess fees to such deposit account.

Applicant : Budong You et al.
Serial No. : 10/713,749
Filed : November 13, 2003
Page : 11 of 11

Attorney's Docket No.: 09464-025001

Respectfully submitted,


Alex H. Chan
Reg. No. 52,713

Date: June 27, 2006

Fish & Richardson P.C.
500 Arguello Street, Suite 500
Redwood City, California 94063
Telephone: (650) 839-5070
Facsimile: (650) 839-5071

50339237.doc